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§ 404.35 Is there a different non-Federal cost-share requirement for feasibility studies that involve a community greater than 50,000 inhabitants?

Yes. If the feasibility study involves a rural water supply system that will serve a community with a population in excess of 50,000 inhabitants, pursuant to the exception provided in § 404.8, you may be required to pay more than 50 percent of the costs of the study. Determination of the appropriate amount of the non-Federal cost-share will be based on the same criteria used to evaluate your capability to pay the non-Federal share of construction costs, set forth in § 404.39.

§ 404.36 Will Reclamation reimburse me for the cost of an appraisal investigation or a feasibility study that was not completed under § 404.11(a) or (b)?

No. The cost-share provisions described in this rule only apply to appraisal investigations and feasibility studies that are completed under the program pursuant to § 404.11(a) or (b). Reclamation will not reimburse you or provide program funding for any expenses related to an appraisal investigation or a feasibility study that is completed without assistance from Reclamation.

§ 404.37 How will Reclamation determine the appropriate non-Federal share of construction costs?

Reclamation will determine the appropriate non-Federal share of construction costs in the process of developing the feasibility report. The non-Federal cost-share will be:

- (a) At least 25 percent of the total construction costs; and
- (b) An additional amount based on your capability to pay, as appropriate, to be determined by Reclamation based on the factors in § 404.39.

§ 404.38 Are there different requirements for determining the appropriate non-Federal share of construction costs to be paid by Indian tribes?

Yes. The appropriate non-Federal share of construction costs to be paid by Indian tribes will be based on:

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(a) Consideration of an Indian tribe's capability to pay at least 25 percent of the construction costs, to be determined in accordance with the factors in § 404.39; and

(b) If Reclamation determines, based on the analysis in § 404.38(a), that an Indian tribe is not capable of paying at least 25 percent of the construction costs, Reclamation may recommend in its feasibility report that the collection of all or part of the non-Federal construction costs apportioned to an Indian tribe be deferred, unless or until Reclamation determines that the Indian tribe should pay all or a portion of those costs.

§ 404.39 What factors will Reclamation consider in evaluating my capability to pay 25 percent or more of the construction costs?

Reclamation will consider the following factors:

(a) Economic factors for the project area, relative to the state average, including:

- (1) Per capita income;
- (2) Median household income; and
- (3) The poverty rate;

(b) The ability of the project sponsor to raise tax revenues or assess fees such as user fees and ad valorem taxes or issue bonds;

(c) The strength of the project sponsor financial statements in comparison to other similar entities over the previous 4 years, including a review of:

- (1) Current (includes cash and inventory) and non-current assets (property, plants etc.);
- (2) Net Assets (total assets minus total liabilities);
- (3) Changes to net assets;
- (4) Operating revenues (water and power sales);
- (5) Operating expenses (variable costs and depreciation, maintenance and repair);
- (6) Cash flow from operating activities (positive value from water sales minus payments to supplies and employees);
- (7) Current (current bonds payable and accounts payable) and non-current liabilities (long term debt payable);
- (8) Outstanding debts and all other financial obligations;
- (9) Collateral/equity as appropriate;

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(10) Cash flows from capital and related financing activities (negative value from principle paid on bonds and interest payments);

(11) Net cash flow; and

(12) Any non-operating revenues and expenses;

(d) Funding commitments from non-Federal sources, other than the non-Federal project sponsor, including resources committed by state, county, or local governments;

(e) The existing cost of water and the cost to develop new water supplies in the region; and

(f) The impact of the proposed project on water rates;

(g) The projected impact of the proposed project on the non-Federal project sponsor's ability to raise or generate revenues;

(h) The non-Federal project sponsor's financial history including their past performance on repaying loans and other debts; and

(i) Any other financial means of the non-Federal project sponsor that is not captured in this subsection.

§ 404.40 What is the non-Federal share of operation, maintenance, and replacement costs?

You are required to pay 100 percent of the operation, maintenance, and replacement costs of any rural water supply project planned under this program.

Subpart C—Appraisal Investigations

§ 404.41 How will an appraisal investigation be conducted under this program?

Appraisal investigations will be conducted in accordance with Reclamation-approved standards governing the approach, process and content of the appraisal investigation. You can obtain information about Reclamation's standards and requirements for conducting an appraisal investigation by contacting your local Reclamation office.

§ 404.42 How much time is provided to complete an appraisal investigation?

An appraisal investigation must be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated, unless otherwise agreed to in writing by Reclamation.

§ 404.43 What process will Reclamation follow to determine if an appraisal investigation is ready for review?

(a) Reclamation will evaluate whether the appraisal investigation adequately addresses all of the items required in Reclamation's standards for conducting appraisal investigations, and is, therefore ready for review. Reclamation standards and requirements for the content of an appraisal investigation are available at your local Reclamation office. Reclamation will notify you in writing of the outcome of this determination within 90 business days from the date of Reclamation's receipt of the appraisal investigation;

(b) If the appraisal investigation does not include the required information, you will be notified in writing of the reasons why, and you will have an opportunity to make changes and re-submit the corrected appraisal investigation to Reclamation for additional review. As appropriate, Reclamation will work with you to suggest approaches to correct the appraisal investigation;

(c) Once Reclamation determines that the appraisal investigation includes all of the required information, Reclamation will review the investigation to determine, based on an application of the criteria set forth in § 404.44, whether or not it is appropriate to proceed to a feasibility study. Reclamation will document its findings in an appraisal report, as described in § 404.45;

(d) Reclamation's review of an appraisal investigation will take no longer than 180 business days from its receipt of the appraisal investigation to its completion of the appraisal report, excluding time when Reclamation is waiting for additional information from the project sponsor.